IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17517 of 2004

Between:

1. T. Jalandar, S/o. Venkatappa,
   R/o. Door No. 2/199, T. Sunupalli Village & Mandal, Cuddapah District.
2. P. Sudhakar, S/o. Kammaiah,
   R/o. Door No. 2/255, T. Sunupalli Village & Mandal, Cuddapah District.
3. B. Venkataswamy, S/o. Siddamma,
   R/o. Burraladinnepalli, T. Sunupalli Mandal, Cuddapah District.
4. N. Narayana, S/o. Hanumanthu,
   R/o. Door No. 2/254, T. Sunupalli Village & Mandal, Cuddapah District.
5. K. Gangoji, W/o. Late Lakshmaiah,
   R/o. Door No. 2/256, Krishna Nagar, T. Sunupalli Village & Mandal,

Cuddapah District.
6. T. Ramanjulamma, W/o. T. Raja,
   R/o. Door No. 2/321, Krishna Nagar, T. Sunupalli Village & Mandal,

Cuddapah District.

.....PETITIONERS

AND

1 The District Collector, Cuddapah, Cuddapah District.
2 The Joint Collector, Cuddapah, Cuddapah District.
3 The Revenue Divisional Officer, Cuddapah, Cuddapah District.
4 The Mandal Revenue Officer, T. Sundupalli Mandal, Cuddapah District.
5 Smt. S. Rahajan, W/o. late Mahaboob Basha,
T. Sundupali, R/o. Near Ravi Picture Palace, Rayachoty Town & Mandal,
Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings in Ref. C/353/2004, dated 07-09-2004 issued by the 3rd respondent as arbitrary, illegal, discriminatory, collusive, contrary to the enquiry report of the 4th respondent and also contrary to the provisions of the

A.P. Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982 apart from violative of the fundamental rights guaranteed to the petitioners under Article 14 and 21 of the constitution of India and consequently set aside.

Counsel for the Petitioner:MR.V.R.REDDY KOVVURI

Counsel for the Respondents1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following :

O R D E R:

The petitioners who claim to be the residents T.Sundupalli and Burraladinnepalli villages of T.Sundupalli Mandal filed this writ petition challenging the order dated 07-09-2004 passed by the Revenue Divisional Officer, Cuddapah.

As can be seen from the material on record, the 5th respondent herein, is the authorized dealer in respect of the fair price shop of T.Sundupalli village. It is stated in the affidavit filed in support of the writ petition that on a representation dated 21-06-2004 made by the cardholders bringing to the notice of the 4th respondent-Mandal Revenue Officer several irregularities committed by the 5th respondent, in distribution of commodities, the 4th respondent conducted an enquiry and submitted a report dated 25-06-2004 to the 3rd respondent – Revenue Divisional Officer, Kadapa requesting to take appropriate action against the 5th respondent. It is further stated that basing on the said report, the 3rd respondent vide proceedings dated 30-06-2004, pending enquiry, suspended the authorization of the 5th respondent and issued a show-cause notice calling upon the 5th respondent to explain the alleged irregularities. Thereafter, having considered the explanation submitted by the 5th respondent, the 3rd respondent vide proceedings No.C/353/2004 dated 07-09-2004 restored the authorization imposing a penalty of Rs.1,000/- with severe warning. Aggrieved by the said order, this writ petitioner has been filed by the petitioners.

At the outset, it is to be noted that against the impugned order, an alternative remedy is available under the statute by way of appeal before the Joint Collector. Without exhausting the statutory remedy of appeal, the petitioners cannot maintain this writ petition.

However, the learned Counsel for the petitioners vehemently contended that since

the impugned order passed by the third respondent – Revenue Divisional Officer is contrary to the report submitted by the fourth respondent – Mandal Revenue Officer with regard to the irregularities committed by the fifth respondent, it is a fit matter for interference by this Court. I am unable to agree. The 3rd respondent who is the appointing authority, after conducting due enquiry and on appreciation of the material on record passed an order restoring the authorization of the 5th respondent. Whether such order is sustainable or not involves investigation into several disputed questions of fact on appreciation of the material available on record after affording due opportunity to both the parties. Hence, if the petitioners are aggrieved, it is open to them to invoke the remedy of appeal or any other appropriate remedy, but the relief as prayed for cannot be granted in exercise of writ jurisdiction.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of granting leave and liberty to the petitioners to work out the appropriate remedy as available under law. No costs.

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29-09-2004

Note: CC in two days

B/oMjl

To

1. The District Collector, Cuddapah, Cuddapah District.
2 The Joint Collector, Cuddapah, Cuddapah District.
3 The Revenue Divisional Officer, Cuddapah, Cuddapah District.
4 The Mandal Revenue Officer, T. Sundupalli Mandal, Cuddapah District

5. 2 CCs to GP for Civil Supplies, High Court of A.P.Hyderabad.

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